

SAO 440 (Rev. 10/93) Summons in a Civil Action

## UNITED STATES DISTRICT COURT

EASTERN

District of

VIRGINIA

NTP INC.

Richmond Division

## SUMMONS IN A CIVIL CASE

V.

RESEARCH IN MOTION, LTD.

CASE NUMBER:

3:01cv767

TO: (Name and address of Defendant)

Research In Motion, Ltd.  
295 Phillip Street  
Waterloo, Ontario  
Canada N2L 3W8

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Christopher M. Mills (VA Bar No. 44358)  
WILEY REIN & FIELDING LLP  
7925 Jones Branch Drive, Suite 6200  
McLean, VA 22102

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

Elizabeth H. Paret

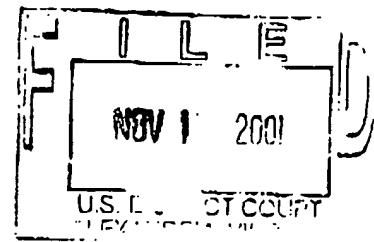
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11/13/01

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NTP Inc.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION**

*Richmond*

NTP INC.,  
1300 North Seventeenth Street, Suite 1800  
Arlington, VA 22209

Plaintiff,

v.

RESEARCH IN MOTION, LTD.,  
295 Phillip Street  
Waterloo, Ontario  
Canada N2L 3W8

Defendant.

Civil Action No. *3-01cv767*

**COMPLAINT FOR PATENT  
INFRINGEMENT**

**JURY TRIAL DEMANDED**

Plaintiff NTP Inc. ("NTP") alleges as follows:

### NATURE OF THE ACTION AND THE PARTIES

1. This is a civil action for the infringement of United States Patents Nos. 5,438,611 ("the '611 patent"); 5,479,472 ("the '472 patent"); 5,436,960 ("the '960 patent"); 5,625,670 ("the '670 patent"); 5,631,946 ("the '946 patent"); 5,819,172 ("the '172 patent"); 6,067,451 ("the '451 patent"); and 6,317,592 ("the '592 patent") (collectively, "the Campana Patents"). As this case proceeds with continued investigation and discovery, NTP may find bases for amending this complaint to assert other patents and causes of action not presently included in this complaint.

2. Plaintiff NTP is a Virginia corporation, with its office at 1300 North Seventeenth Street, Suite 1800 Arlington, VA 22209. Plaintiff NTP owns the Campana Patents relating to the use of RF (wireless) communications in electronic mail systems, as further described herein.

3. Defendant Research In Motion, Ltd. ("RIM") is an Ontario, Canada corporation with its principal offices at 295 Phillip Street, Waterloo, Ontario, Canada N2L 3W8. RIM is a provider of "wireless handheld" devices and services, including those sold under the BlackBerry™ product line, for use with electronic mail systems.

### JURISDICTION AND VENUE

4. Because this action arises under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.* and specifically 35 U.S.C. § 271, this Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1338.

5. This Court has personal jurisdiction over defendant RIM under Va. Code. Ann. § 8.01-321.1 because RIM transacts business regularly in Virginia, and has caused injury to Plaintiff in this District. Moreover, this lawsuit arises out of the infringing acts committed by the

Defendant in this District. Venue in this Court is proper, pursuant to 28 U.S.C. § 1391(d), 28 U.S.C. § 1391(b), 28 U.S.C. § 1400(b) and Local Rule 3(C).

### THE CAMPANA PATENTS

6. As the use of electronic mail systems became more popular, users became increasingly reliant upon access to their email. At the same time as the popularity of email exploded, the use of mobile personal computers, such as might fit in a briefcase or pocket, became more widespread—particularly by business travelers. The combination of reliance upon email and reliance upon mobile computers created a problem for travelers: staying in contact with their email while they and their computers were away from their usual workplace. Initially, travelers attempted to solve this problem by: (a) equipping their mobile computers with telephone modems, (b) periodically connecting the modems to telephone jacks with wires, and (c) dialing into computers connected to the email system in their usual workplace. This solution was awkward in that it, among other things, required the traveler to locate a usable telephone jack compatible with the type of modem installed in the mobile computer. Additionally, such a solution required the user to remember to periodically initiate action attempting to request email messages from his usual workplace to the mobile computer—even without knowing whether any messages were waiting or not. Other attempted solutions had a host of problems.

7. To satisfy the need for remote access to email and to overcome the shortcomings of prior systems, there was a need for a system that could operate independently of the wired modem restrictions and provide for regular email updates. This need was filled by the Campana Patents which provided for a wireless mobile email unit and the infrastructure necessary in the email system to update the user's email messages through the base email system and a wireless transmission system to the mobile email unit.

8. The '611 patent, entitled "Electronic Mail System With RF Communications To Mobile Processors Originating From Outside Of The Electronic Mail System And Method Of Operation Thereof," issued on August 1, 1995. The '611 patent inventors are Thomas J. Campana, Jr., Michael P. Ponschke, and Gary F. Thelen. The '611 patent is now, and has been at all times since its date of issue, valid and enforceable. NTP is the assignee and sole owner of the '611 patent, and the sole owner of the right to sue and to recover for any infringement of that patent.

9. The '472 patent, entitled "System For Interconnecting Electronic Mail Systems By RF Communications And Method Of Operation Thereof," issued on December 26, 1995. The '472 patent inventors are Thomas J. Campana, Jr., Michael P. Ponschke, and Gary F. Thelen. The '472 patent is now, and has been at all times since its date of issue, valid and enforceable. NTP is the assignee and sole owner of the '472 patent, and the sole owner of the right to sue and to recover for any infringement of that patent.

10. The '960 patent, entitled "Electronic Mail System With RF Communications To Mobile Processors And Method Of Operation Thereof," issued on July 25, 1995. The '960 patent inventors are Thomas J. Campana, Jr., Michael P. Ponschke, and Gary F. Thelen. The '960 patent is now, and has been at all times since its date of issue, valid and enforceable. NTP is the assignee and sole owner of the '960 patent, and the sole owner of the right to sue and to recover for any infringement of that patent.

11. The '670 patent, entitled "Electronic Mail System With RF Communications To Mobile Processors," issued on April 29, 1997. The '670 patent inventors are Thomas J. Campana, Jr., Michael P. Ponschke, and Gary F. Thelen. The '670 patent is now, and has been at all times since its date of issue, valid and enforceable. NTP is the assignee and sole owner of

the '670 patent, and the sole owner of the right to sue and to recover for any infringement of that patent.

12. The '946 patent, entitled "System For Transferring Information From A RF Receiver To A Processor Under Control Of A Program Stored By The Processor And Method Of Operation Thereof," issued on May 20, 1997. The '946 patent inventors are Thomas J. Campana, Jr., Michael P. Ponschke, and Gary F. Thelen. The '946 patent is now, and has been at all times since its date of issue, valid and enforceable. NTP is the assignee and sole owner of the '946 patent, and the sole owner of the right to sue and to recover for any infringement of that patent.

13. The '172 patent, entitled "Electronic Mail System With RF Communications To Mobile Radios," issued on October 6, 1998. The '172 patent inventors are Thomas J. Campana, Jr., Michael P. Ponschke, and Gary F. Thelen. The '172 patent is now, and has been at all times since its date of issue, valid and enforceable. NTP is the assignee and sole owner of the '172 patent, and the sole owner of the right to sue and to recover for any infringement of that patent.

14. The '451 patent, entitled "Electronic Mail System With RF Communications To Mobile Processors," issued on May 23, 2000. The '451 patent inventors are Thomas J. Campana, Jr., Michael P. Ponschke, and Gary F. Thelen. The '451 patent is now, and has been at all times since its date of issue, valid and enforceable. NTP is the assignee and sole owner of the '451 patent, and the sole owner of the right to sue and to recover for any infringement of that patent.

15. The '592 patent, entitled "Electronic Mail System With RF Communications To Mobile Processors," issued on November 13, 2001. The '592 patent inventors are Thomas J. Campana, Jr., Michael P. Ponschke, and Gary F. Thelen. The '592 patent is now, and has been

at all times since its date of issue, valid and enforceable. NTP is the assignee and sole owner of the '592 patent, and the sole owner of the right to sue and to recover for any infringement of that patent.

### **RIM'S INFRINGING ACTIVITIES AND NOTICE THEREOF**

16. Defendant has engaged in activities within the Alexandria Division of the Eastern District of Virginia ("Alexandria Division") constituting infringement, inducement of infringement and contributing to infringement of the Campana Patents. Such activities include: (1) Sales and distribution of infringing devices, software and services to retail stores located in the Alexandria Division knowingly for resale to customers for use in the Alexandria Division; (2) Direct solicitation of sales and actual sales of infringing devices, software and services to customers in the Alexandria Division, for use in the Alexandria Division, via the Defendant's online Web sites including but not limited to <http://www.RIM.net> and <http://www.blackberry.net>; (3) Knowingly communicating to customers located in the Alexandria Division through telephone and online contacts to support the infringing use of Defendant's infringing products; (4) Conducting marketing, promotion, and advertising activities in the Alexandria Division for infringing products constituting offers to sell in publications directed at customers in the Alexandria Division; (5) Providing instructions, support and services to customers who are infringing the Campana Patents in the Alexandria Division; and (6) Engaging in licensing agreements with companies located in the Alexandria Division for the marketing, advertising, sales, support and use of products and services which infringe the Campana Patents.

17. In January, 2000, Plaintiff notified Defendant of the existence of the '946, '670, '472, '611, '960, and '172 patents as well as the existence of pending applications, one of which issued thereafter as the '451 patent. In Plaintiff's notice to Defendant, Plaintiff enclosed copies

of the then-issued patents and even specified some examples of claims to which Plaintiff wished to direct Defendant's attention. Plaintiff offered to license the issued patents and pending applications, but Plaintiff received no reply from Defendant. Such notice to Defendant constitutes a basis for a finding that Defendant's infringement was willful.

**FIRST CAUSE OF ACTION – RIM'S INFRINGEMENT  
OF U.S. PAT. NO. 5,438,611**

18. NTP realleges paragraphs 1-17 above.

19. Defendant has been, and is now, infringing, inducing the infringement of, and contributing to the infringement of the '611 patent by making, using, selling, offering to sell and importing into the United States products and services, including the Defendant's BlackBerry™ products and their related software, which are covered by one or more of the claims of the '611 patent.

20. Defendant has been, and is now, infringing, inducing the infringement of, and contributing to the infringement of the '611 patent by making, using, selling, offering to sell and importing into the United States products and services, including the Defendant's BlackBerry™ products and their related software, the use of which is covered by one or more of the claims of the '611 patent.

21. RIM's continuing acts of infringement constitute willful infringement of the '611 patent.

22. RIM's activities infringing the '611 patent have damaged NTP and will continue to cause NTP irreparable harm unless such infringing activities are enjoined by this Court.

**SECOND CAUSE OF ACTION – RIM'S INFRINGEMENT  
OF U.S. PAT. NO. 5,479,472**

23. NTP realleges paragraphs 1-17 above.



24. Defendant has been, and is now, infringing, inducing the infringement of, and contributing to the infringement of the '472 patent by making, using, selling, offering to sell and importing into the United States products and services, including the Defendant's BlackBerry™ products and their related software, which are covered by one or more of the claims of the '472 patent.

25. Defendant has been, and is now, infringing, inducing the infringement of, and contributing to the infringement of the '472 patent by making, using, selling, offering to sell and importing into the United States products and services, including the Defendant's BlackBerry™ products and their related software, the use of which is covered by one or more of the claims of the '472 patent.

26. RIM's continuing acts of infringement constitute willful infringement of the '472, patent.

27. RIM's activities infringing the '472 patent have damaged NTP and will continue to cause NTP irreparable harm unless such infringing activities are enjoined by this Court.

**THIRD CAUSE OF ACTION – RIM'S INFRINGEMENT  
OF U.S. PAT. NO. 5,436,960**

28. NTP realleges paragraphs 1-17 above.

29. Defendant has been, and is now, infringing, inducing the infringement of, and contributing to the infringement of the '960 patent by making, using, selling, offering to sell and importing into the United States products and services, including the Defendant's BlackBerry™ products and their related software, which are covered by one or more of the claims of the '960 patent.

30. Defendant has been, and is now, infringing, inducing the infringement of, and contributing to the infringement of the '960 patent by making, using, selling, offering to sell and

importing into the United States products and services, including the Defendant's BlackBerry™ products and their related software, the use of which is covered by one or more of the claims of the '960 patent.

31. RIM's continuing acts of infringement constitute willful infringement of the '960 patent.

32. RIM's activities infringing the '960 patent have damaged NTP and will continue to cause NTP irreparable harm unless such infringing activities are enjoined by this Court.

**FOURTH CAUSE OF ACTION – RIM'S INFRINGEMENT  
OF U.S. PAT. NO. 5,625,670**

33. NTP realleges paragraphs 1-17 above.

34. Defendant has been, and is now, infringing, inducing the infringement of, and contributing to the infringement of the '670 patent by making, using, selling, offering to sell and importing into the United States products and services, including the Defendant's BlackBerry™ products and their related software, which are covered by one or more of the claims of the '670 patent.

35. Defendant has been, and is now, infringing, inducing the infringement of, and contributing to the infringement of the '670 patent by making, using, selling, offering to sell and importing into the United States products and services, including the Defendant's BlackBerry™ products and their related software, the use of which is covered by one or more of the claims of the '670 patent.

36. RIM's continuing acts of infringement constitute willful infringement of the '670 patent.

37. RIM's activities infringing the '670 patent have damaged NTP and will continue to cause NTP irreparable harm unless such infringing activities are enjoined by this Court.

**FIFTH CAUSE OF ACTION – RIM'S INFRINGEMENT  
OF U.S. PAT. NO. 5,631,946**

38. NTP realleges paragraphs 1-17 above.

39. Defendant has been, and is now, infringing, inducing the infringement of, and contributing to the infringement of the '946 patent by making, using, selling, offering to sell and importing into the United States products and services, including the Defendant's BlackBerry™ products and their related software, which are covered by one or more of the claims of the '946 patent.

40. Defendant has been, and is now, infringing, inducing the infringement of, and contributing to the infringement of the '946 patent by making, using, selling, offering to sell and importing into the United States products and services, including the Defendant's BlackBerry™ products and their related software, the use of which is covered by one or more of the claims of the '946 patent.

41. RIM's continuing acts of infringement constitute willful infringement of the '946 patent.

42. RIM's activities infringing the '946 patent have damaged NTP and will continue to cause NTP irreparable harm unless such infringing activities are enjoined by this Court.

**SIXTH CAUSE OF ACTION – RIM'S INFRINGEMENT  
OF U.S. PAT. NO. 5,819,172**

43. NTP realleges paragraphs 1-17 above.

44. Defendant has been, and is now, infringing, inducing the infringement of, and contributing to the infringement of the '172 patent by making, using, selling, offering to sell and importing into the United States products and services, including the Defendant's BlackBerry™

products and their related software, which are covered by one or more of the claims of the '172 patent.

45. Defendant has been, and is now, infringing, inducing the infringement of, and contributing to the infringement of the '172 patent by making, using, selling, offering to sell and importing into the United States products and services, including the Defendant's BlackBerry™ products and their related software, the use of which is covered by one or more of the claims of the '172 patent.

46. RIM's continuing acts of infringement constitute willful infringement of the '172 patent.

47. RIM's activities infringing the '172 patent have damaged NTP and will continue to cause NTP irreparable harm unless such infringing activities are enjoined by this Court.

**SEVENTH CAUSE OF ACTION – RIM'S INFRINGEMENT  
OF U.S. PAT. NO. 6,067,451**

48. NTP realleges paragraphs 1-17 above.

49. Defendant has been, and is now, infringing, inducing the infringement of, and contributing to the infringement of the '451 patent by making, using, selling, offering to sell and importing into the United States products and services, including the Defendant's BlackBerry™ products and their related software, which are covered by one or more of the claims of the '451 patent.

50. Defendant has been, and is now, infringing, inducing the infringement of, and contributing to the infringement of the '451 patent by making, using, selling, offering to sell and importing into the United States products and services, including the Defendant's BlackBerry™ products and their related software, the use of which is covered by one or more of the claims of the '451 patent.

51. RIM's continuing acts of infringement constitute willful infringement of the '451 patent.

52. RIM's activities infringing the '451 patent have damaged NTP and will continue to cause NTP irreparable harm unless such infringing activities are enjoined by this Court.

**EIGHTH CAUSE OF ACTION – RIM'S INFRINGEMENT  
OF U.S. PAT. NO. 6,317,592**

53. NTP realleges paragraphs 1-17 above.

54. Defendant has been, and is now, infringing, inducing the infringement of, and contributing to the infringement of the '592 patent by making, using, selling, offering to sell and importing into the United States products and services, including the Defendant's BlackBerry™ products and their related software, which are covered by one or more of the claims of the '592 patent.

55. Defendant has been, and is now, infringing, inducing the infringement of, and contributing to the infringement of the '592 patent by making, using, selling, offering to sell and importing into the United States products and services, including the Defendant's BlackBerry™ products and their related software, the use of which is covered by one or more of the claims of the '592 patent.

56. RIM's activities infringing the '592 patent have damaged NTP and will continue to cause NTP irreparable harm unless such infringing activities are enjoined by this Court.

**PRAYER FOR RELIEF**

WHEREFORE, NTP prays for judgment as follows:

A. That this Court adjudge and decree that the Campana Patents are infringed by RIM, that RIM has induced infringement and that RIM has contributed to infringement.

B. That infringement, inducement of infringement and contributing to infringement by RIM has been willful.

C. That this Court permanently enjoin RIM and its officers, directors, agents, servants, employees, attorneys, successors, licensees, assigns, and all others in active concert or participation with RIM, from engaging in any acts that constitute infringement, inducement of infringement or contributory infringement of the Campana Patents.

D. That this Court award NTP damages adequate to compensate for RIM's infringement, inducement of infringement and contributory infringement of its patents and any enhanced damages as the Court may see fit under 35 U.S.C. § 284.

E. That this Court award NTP its costs, disbursements, and attorneys' fees for this action, including those pursuant to 35 U.S.C. § 285 together with interest as provided by law.

F. That NTP be awarded such further relief as this Court may deem just and appropriate.

**JURY DEMAND**

Plaintiff NTP Inc. demands a trial by jury.

WILEY REIN & FIELDING LLP

By: Christopher M. Mills

Christopher M. Mills

Of Counsel:

James H. Wallace, Jr.

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Attorneys for Plaintiff NTP Inc.

November 13, 2001